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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/390,435	09/07/1999	JOHN G. SPAKOUSKY	6479	6931

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT PAPER NUMBER

3637

DATE MAILED: 02/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/390,435

Applicant(s)

SPAKOUSKY, JOHN G.

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17-21, 24, 35, 38, 40, 41 and 45-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 11, 14, 17, 19-21, 24, 35, 38, 40, 41, 45-47, 50 and 52 is/are rejected.
- 7) ☒ Claim(s) 6-9, 15, 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 42-49 have been renumbered 45-52.

Response to Amendment

The supplemental declaration under 37 CFR 1.132 filed 11/18/02 is sufficient to overcome the rejection of claims 1-15, 17-21, 24, 35, 38, 40-41 based upon Hopkins (1226214).

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-15, 17-21, 35, 38, 40-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 lines 2, 5 “mortared wall structure”, “mortar receiving surface” is confusing. It appears the language is trying to bring out the limitation of mortar in the structure. However, mortar is not claimed. Is it applicant’s intention to claim the block “capable of mortar”/”adaptable for mortar use”?

Claims 17, 35 have similar problem with “mortar” as above.

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 17, 21, 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Boeck (5704180).

Boeck (figure 4) shows a connective structure having a plurality of elements forming arms (56s, 42s), at least one arm extending from the first wall to the second walls, connectors (36, 32, 30, 34) at the opposed ends, the arm providing a thermal conduction path of limited vertical cross-sectional area relative to the face area, a center form (42s), two end arms projecting outwardly from each side of the center form (42), the arms supporting the at least two connectors taper such that the vertical cross sectional area of the connective structure decreases as it extends away from the connectors.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 10-11, 35, 38, 40-41, 45-47, 50, 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nehring (5570552) in view of Hopkins (1226214).

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Nehring shows a discrete, pre-assembled composite block having a first wall (22), second wall (24), at least one of which being load bearing, a mortar receiving surface (30, capable of receiving mortar), a connective structure (62) formed of a second, non-masonry type material, and connected between the first and second walls, the connector structure having at least two connectors (50), each of the connectors being connected to one of the first and second walls such that prior to placement of the block unit in a wall structure, the first and second walls being securely positioned with respect to one another as opposite faces of a discrete, substantially rectangular block, each face having a face area (34), the connective structure being free of direct, structural connection to any wall of each adjacent block unit when the block unit is in a wall structure, the connective structure comprising arms (52) supporting the at least two connectors and said arms providing a thermal conduction path of limited vertical cross-sectional area relative to either wall face area, the connective structure having a center form (62) with first and second opposed sides, at least one of the arms supporting a connector projects outwardly from each of the opposed sides of the center form, the arms (52) taper such that the vertical cross-sectional area of the connective structure decreases as it extends away from the walls toward the center form, the connectors being inserted into formations in the walls to frictionally engage the receptacles, an insulating mass (42A) having approximately the same height and width dimensions as the first and second walls, the mass being secured and held by the connective structure so as to provide a barrier to energy movement between the walls, at least one of the walls having a surface treatment, at least one of the first and second walls being unitary (when assembled, the parts form one unit) with the connective structure.

Nehring does not show the first material being masonry material.

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Hopkins discloses the walls being made of masonry material.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Nehring to show the first material being masonry material as taught by Hopkins because masonry material provides good insulation, strength and is a cheap material to use.

Per claims 45-47, 50, 52, Nehring as modified shows all the claimed limitations. The claimed method steps would have been the obvious method steps of making Nehring's modified structure.

Per claim 11, Nehring as modified shows all the claimed limitations except for the connectors being plastics. Nehring discloses connectors being made of plastics in U.S. patent 4706429.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Nehring's modified structure to show the connectors being plastic because plastic, metal... are well known material for making connectors in walls.

Per claim 36, Nehring shows a connective structure (72) having connectors at the end, the connectors deforming as inserted into the walls.

7. Claims 1, 12, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart Jr. (510720) in view of Nehring (5570552).

Stewart Jr. (appendix A) shows a discrete pre-assembled composite block unit having a first wall (FW), a second wall (SW), at least one of the which is load bearing for vertical loads and made from a first, masonry-type material, each of said wall having at least one mortar receiving surface (11) for forming a mortar joint with the adjacent block units, a connective

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structure (15b) connected between the first and second walls, the connective structure having at least two connectors (13), each of the connectors being connected to one of the first and second walls, the walls being securely positioned with respect to one another as opposite faces of a discrete, substantially rectangular block, each face having a face area, the connective structure (15b) being free of direct structural connection to any wall of each adjacent block unit when the block unit is in a wall structure, the connective structure comprising arms (each half of the connectors) supporting the at least two connectors and said arms providing a thermal conduction path of limited cross-sectional area relative to either wall face area, a partition/form/center arm (20) forming a first and second cavity with the first and second wall.

Stewart Jr. does not show the connector being formed of a non-masonry material.

Nehring shows a connector formed of metal material.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Stewart Jr. to show the connector being formed of metal material as taught by Nehring because a metallic connector would provide strong connecting power to connect the walls together.

Per claim 13, Stewart Jr. as modified shows all the claimed limitations except for the first cavity being larger than the second cavity.

Stewart Jr. (figure 6) shows the partition forming a first cavity (23) being larger than the second cavity (24).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Stewart Jr. 's modified structure to show the first cavity being larger than the

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second cavity because it would enable the filling of more insulating material in the first cavity as taught by Stewart Jr.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nehring in view of Hopkins as applied to claim 1 above, and further in view of Stewart Jr.

Nehring as modified shows all the claimed limitations except for the connectors being received in a dovetail-shaped formation.

Stewart Jr. discloses dovetail shape connectors being received in dovetail shape formation.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Nehring's modified structure to show the connectors being received in a dovetail-shaped formation because dovetail connectors would enable the connecting of walls together as taught by Stewart Jr.

9. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boeck in view of Murier (FR 730009).

Boeck shows all the claimed limitations except for the insert type connector being generally V-shaped for a dovetail-shaped connector formation.

Murier (figures 1-2) shows the insert type connector being generally V-shaped for a dovetail-shaped connector formation.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Boeck to show the insert type connector being generally V-shaped for a dovetail-shaped connector formation because V-shape connector inserted into dovetail-shaped

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connector formation in walls would provide good connecting strengths for walls as taught by Murier.

10. Claims 42, 43, 48, 49, 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart Jr in view of Nehring.

Stewart Jr. as modified by Nehring shows all the claimed limitations. The claimed method steps of making a discrete pre-assembled composite block unit would have been the obvious method steps of making Stewart Jr. modified structures.

Allowable Subject Matter

11. Claims 6-9, 15, 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter: prior art does not show the connective structure having two end arms and a center arm, the center arm being vertically displaced with respect to the end arm in combination with other claimed limitations; prior art also does not show the block unit having a center form having sides facing the walls, the at least one arm projecting from either side of the center form, each arm having a connector, and the projection length of the at least one arm being not equal to the projection length of the other at least one arm in combination with other claimed limitations.

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Response to Arguments

13. Applicant's arguments with respect to claims 1-15,17-21,24,35,38,40-41, 45-52 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different block units having connective structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Phi Dieu Tran A
February 24, 2003

PA

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600



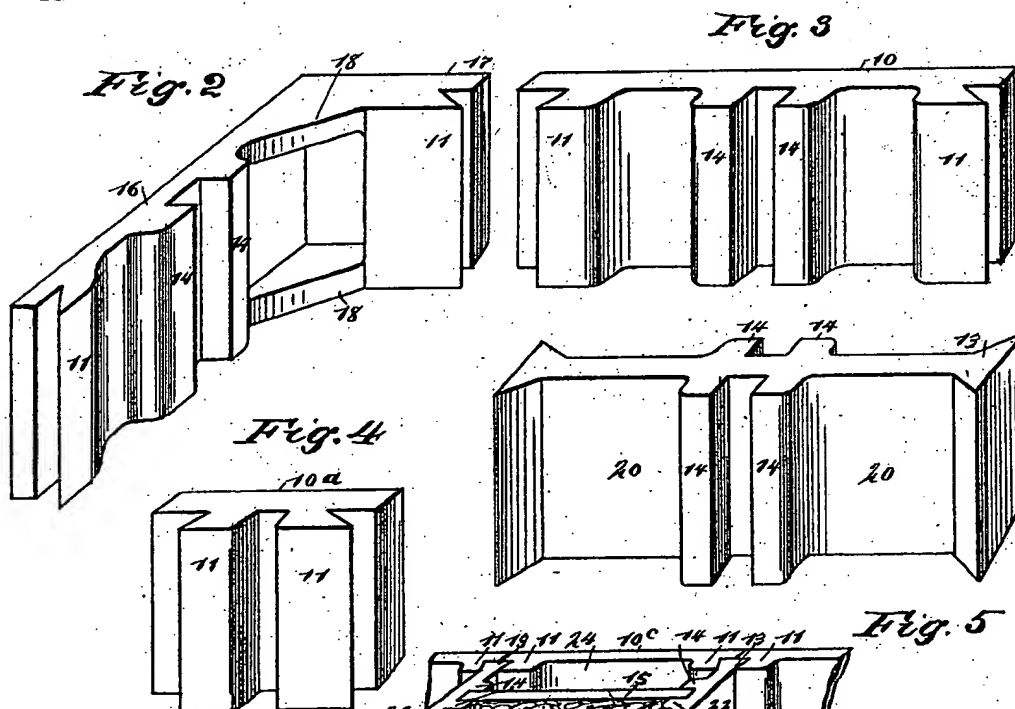
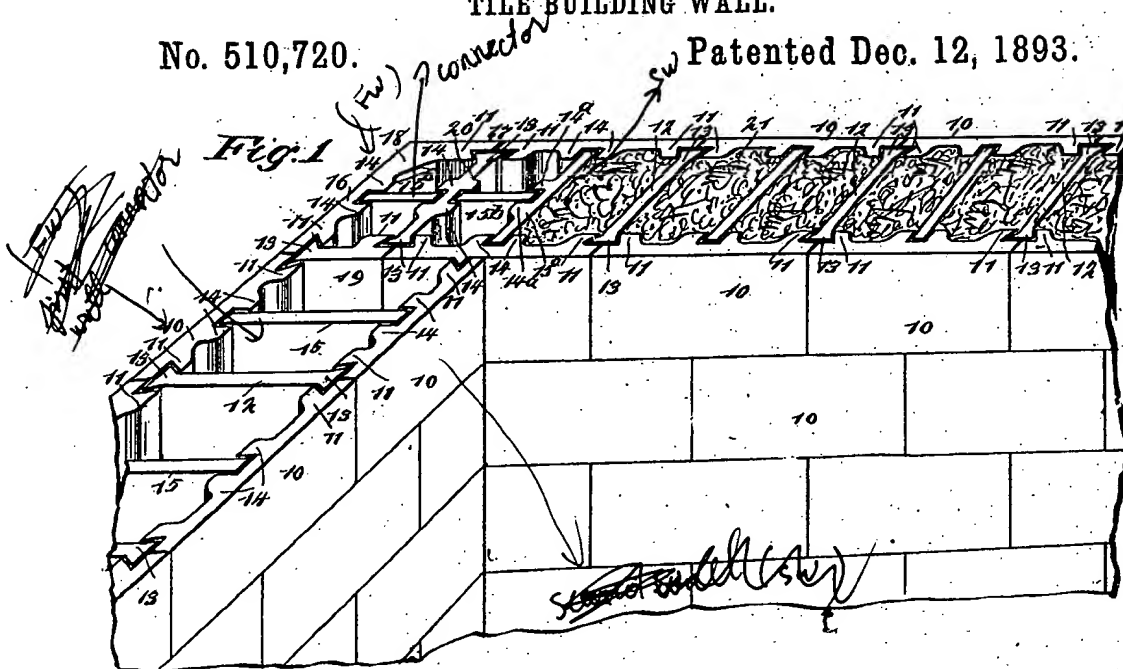
Appendix A

(No Model.)

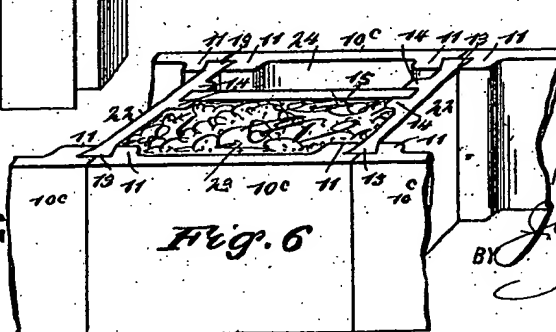
J. STEWART, Jr.
TILE BUILDING WALL.

No. 510,720.

Patented Dec. 12, 1893.



WITNESSES:
J. A. Berghman
C. Sedgwick



INVENTOR
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BY
Munn & Co.
ATTORNEYS.